

# Notice of Allowability

Application No.

10/719,259

Examiner

Melanie J. Hand

Applicant(s)

CARLIN ET AL.

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 7/9/07, 9/25/07.
2. ☒ The allowed claim(s) is/are 1-3, 5-13 and 15-19.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20071031.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

MJH

**EXAMINER'S COMMENT**

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 9, 2007 has been entered.

***Terminal Disclaimer***

The terminal disclaimer filed on September 25, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 7,070,585 has been reviewed and is accepted. The terminal disclaimer has been recorded.

The terminal disclaimer filed on September 25, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 7,097,638 has been reviewed and is accepted. The terminal disclaimer has been recorded.

The terminal disclaimer filed on September 25, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 7,087,045 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Allowable Claims***

Claims 1-3, 5-13 and 15-19 are allowed.

**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with James Oehlenschlager on October 30, 2007.

Please amend claims 1 and 10 to read as follows:

**Claim 1. A tampon for feminine hygiene comprising an insertion end, a withdrawal end, a longitudinal axis, and an outer surface; said tampon being comprised of compressed fibrous material; wherein said outer surface of said tampon comprises a plurality of first surfaces and a plurality of second surfaces, each of said first surfaces having a distal end and a proximal end, each of said second surfaces having a distal end and a proximal end, said proximal end of said first surface contacting said proximal end of said second surface to form a proximal vertex, said distal end of said first surface contacting said distal end of said second surface to form a distal vertex, wherein along the length of the tampon there are multiple sets of widths between a first distal vertex and a second distal vertex, wherein the multiple sets of widths have a stepped transition.**

**Claim 10. A tampon for feminine hygiene comprising an insertion end, a withdrawal end, a horizontal axis, a longitudinal axis, a radial axis, and an outer surface; said tampon being comprised of compressed fibrous material; wherein said outer surface of said tampon comprises a plurality of first surfaces and a plurality of second surfaces, each of said first surfaces having a distal end and a proximal end, each of said second surfaces having a distal end and a proximal end, said proximal end of said first surface contacting said proximal end of said second surface to form a proximal vertex, said distal end of said first surface contacting said distal end of said second surface to form a distal vertex, wherein along the length of the tampon there are multiple sets of width dimensions between a first distal vertex and a second distal vertex, wherein the multiple sets of width dimensions have a stepped transition. -----**

#### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance: A thorough search of the prior art of record did not yield a reference, alone or in combination with other references, that teaches or fairly suggests the claimed invention. The following closest prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 3,834,389 to Dulle teaches a tampon comprising an insertion end, a withdrawal end, a longitudinal axis and an outer surface. Dulle teaches that the outer surface comprises a plurality of first surfaces (peaks) and a plurality of second surfaces (valleys), each of said first surfaces and second surfaces having a distal end and proximal end, said proximal end of said first surfaces contacting the proximal ends of the second surfaces to form proximal vertices and the distal ends of the first surfaces contacting the distal ends of the second surfaces to form distal

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vertices. Along the length of the instant tampon there are multiple widths, between a first distal vertex and a second distal vertex. However the multiple widths do not have a stepped transition, and it would not be obvious to modify the tampon of Dulle to meet this limitation as this configuration is only an intermediate shape of the tampon during its formation process. As can be seen from the figures of Dulle, modifying the tampon to meet this limitation would inhibit the formation process and destroy the function of the tampon.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on M-Th 8-5, alt Fri. 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand  
Examiner  
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October 31, 2007

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

